

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of CALIFORNIA-AMERICAN WATER COMPANY (U 210 W) for an Order (1) Expanding its Existing Certificate of Convenience and Necessity to Include the Provision of Wastewater Services to the Public, Including the Right to Recover Rates for such Services; (2) Authorizing Applicant to Create its Monterey Wastewater Division and Service Area and to Acquire the Wastewater Assets of and to Serve Wastewater Customers in Each of the Following Three Monterey County-Owned Systems: CSA 72- Las Palmas Ranch, CSA 10- Laguna Seca Ranch and Carmel Valley County Sanitation District; and (3) Authorizing Applicant to File a Single System-Wide Rate Schedule and Related Tariffs for All Three Acquired Wastewater Systems in its Monterey Wastewater Division.

Application 02-05-058
(Filed May 24, 2002)

**ASSIGNED COMMISSIONER'S RULING
ESTABLISHING CATEGORY AND PROVIDING SCOPING MEMO
IN COMPLIANCE WITH ARTICLE 2.5, SB 960 RULES AND PROCEDURES**

Pursuant to Rules 6(a)(3) and 6.3 of the Commission's Rules of Practice and Procedure,¹ this ruling sets forth the procedural schedule, assigns the principal hearing officer, and addresses the scope of the proceeding following a prehearing conference (PHC) held on July 19, 2001. This ruling is appealable only as to

¹ All references to Rules are to the Commission's Rules of Practice and Procedure found in Title 20 of the California Code of Regulations.

category of this proceeding under the procedures in Rule 6.4. In delineating the scope of this proceeding, I have considered the application, protests, and responses, as well as discussion at the PHC.

Background

By this application, California-American Water Company (Cal-Am) seeks to expand its Certificate of Public Convenience and Necessity (CPCN) to provide wastewater services. Cal-Am's current CPCN only allows it to provide water service, so it does not currently provide wastewater services in California. Cal-Am seeks permission to acquire three wastewater providers that the County of Monterey (County) put up for sale through a request for bid process; Cal-Am was the winning bidder. If granted permission to acquire the wastewater providers, Cal-Am would create a Monterey Wastewater Division and serve the division with a single tariff as proposed in its bid to the County.

The Commission made a preliminary finding in Resolution ALJ 176-3090, issued on June 27, 2002, that the category for this proceeding is ratesetting and determined that the matter did not require hearings. The Office of Ratepayer Advocates (ORA) and John A. Hyland, Jr. (Hyland) each filed a protest with the Commission's Docket Office. Cal-Am filed a reply to the protest of Hyland.² The assigned Administrative Law Judge (ALJ) held a PHC on July 19, 2002 in San Francisco.

Scoping Memo

The purpose of this proceeding is to determine whether or not Cal-Am should be granted a permission to expand its CPCN to provide wastewater

² Concurrent with its reply, Cal-Am filed a motion to accept its late filed reply. The motion is granted.

service, acquire three wastewater providers from the County, and charge the proposed rate for service to all customers. At the PHC, the ALJ and the parties discussed the issues raised by the protests, and the ALJ directed Cal-Am to file a supplement to its application on August 16, 2002. The supplement will cover many of the issues raised by the protests and provide more justification for the application.

At the PHC, ORA stated that it no longer plans to dispute the proposed rates. It continues to have some questions about the expected accounting treatment of the purchased assets, but stated that ORA believes that the County's RFP process has satisfied its concerns with the proposed rates. Hyland continues to have concerns over all of the issues raised by his protest and the ORA protest.

The issues raised fall into three primary areas: health and safety; rates, accounting, and ratemaking; and gray water entitlements. The broad category of health and safety includes the experience of Cal-Am to own and operate a wastewater system, whether the systems being acquired meet minimum standards of design and construction, and whether proposed plant improvements are necessary. In the rate, accounting, and ratemaking area, issues raised are the accounting treatment of the purchase, the reasonableness of the proposed rates, whether a single tariff is appropriate, and the rate of return. The ALJ has required Cal-Am to supplement the record to provide additional documentation on the rates, and specifically how they are derived and justified. The final issue is whether customers are entitled to existing or future use of gray water and under what terms. These issues are all within the scope of the proceeding.

The issue raised by Hyland regarding whether the County was required to hold an election regarding its decision to sell the three wastewater providers is

not within the scope of this proceeding as this Commission has no jurisdiction over the County's decision-making procedures.

Need for Hearings and Ex Parte Rules

Parties disagree about the need for evidentiary and public participation hearings in this case. Cal-Am has requested that its application be resolved without hearings. Until we have reviewed the supplement that is due August 16, 2002, the assigned ALJ and I cannot determine whether or not additional testimony or evidentiary hearings are required. Therefore, at this time I will preliminarily rule that hearings are needed, triggering the *ex parte* rules as set forth in Rule 7(c) and Pub. Util. Code § 1701.3(c).³ It is possible that the Commission will have sufficient information to issue a decision without evidentiary hearings following receipt of the supplement. In the schedule established below, we set a timeline for making this determination by allowing any party to file and serve a request for evidentiary hearings. The request must identify the disputed issues of material fact for which evidence, in the form of prepared testimony, would be presented by the party.

Hyland requested that the Commission hold a public participation hearing (PPH) at the Spreckels School Auditorium to allow affected customers in the Las Palmas Ranch area to have input on whether Cal-Am should be allowed to purchase the wastewater districts and provide service at the rates proposed. We will schedule PPHs in the affected community in September 2002 at dates and times to be determined. Cal-Am will work with the County and protestants to develop a plan for noticing the PPHs and report to the assigned ALJ by phone by August 7, 2002.

³ All section references are to the Public Utilities Code unless otherwise indicated.

Categorization and Designation of Principal Hearing Officer

The parties did not dispute the Commission's preliminary categorization of this proceeding, and I affirm the preliminary categorization of ratesetting. In a ratesetting proceeding, Rule 5(k)(2) defines the presiding officer as the principal hearing officer designated as such by the assigned Commissioner prior to the first hearing in the proceeding. I have designated ALJ Michelle Cooke as the principal hearing officer. The provisions of Pub. Util. Code § 1701.3(a) apply.

Schedule

The following schedule will be adhered to as closely as possible.

Event	Date
Application Filed	May 24, 2002
Prehearing Conference	July 19, 2002
Assigned Commissioner Scoping Memo Issued	July 31, 2002
Cal-Am Supplement Filed and Served	August 16, 2002
Requests for Evidentiary Hearings Filed and Served	August 30, 2002
Public Participation Hearings	September 2002, TBD
Testimony Served (if Evidentiary Hearings Requested)	September 20, 2002
Projected Submission Date (if NO Evidentiary Hearings)	September 30, 2002
Prehearing Conference – Scheduling (if Evidentiary Hearings Requested)	October 8, 2002
Evidentiary Hearings (if Requested)	October 14-16, 2002
Concurrent Opening Briefs Filed (if Evidentiary Hearings Requested)	November 13, 2002
Draft Decision (if NO Evidentiary Hearings)	November 2002
Final Commission Decision (if NO Evidentiary Hearings)	December 2002
Concurrent Reply Briefs Filed (if Evidentiary Hearings Requested)	December 3, 2002
Proposed Decision (if Evidentiary Hearings Requested)	March 2003
Final Commission Decision (if Evidentiary Hearings Requested)	April 2003

Filing, Service, and Service List

There will be documents that parties will be directed to file and serve in response to rulings, either by myself or the assigned ALJ. These documents must be filed with the Commission's Docket Office and served by hard copy on all persons on the service list with the status of appearance or state service. Please note that the Docket Office does NOT appear on the service list. If you are not familiar with the filing requirements, please review the Commission's Rules of Practice and Procedure for all of the filing requirements.

Parties should also provide concurrent e-mail service to ALL persons on the service list, including those listed under "Information Only." Any document that is filed or served MUST also be served electronically. The current service list for this proceeding is attached to this ruling. A copy of the service list for this proceeding is also available on the Commission's web page at http://www.cpuc.ca.gov/published/service_lists/sl_index.htm.

Prepared testimony is served on the service list but is NOT filed with the Docket Office. Therefore, if you chose to submit testimony, you need only follow the service requirements described above, including electronic service, but not the filing requirements.

Therefore, **IT IS RULED** that:

1. The scope of this proceeding is described herein.
2. The schedule of this proceeding is as set forth above in this ruling.
3. This ruling confirms the Commission's preliminary finding in Resolution ALJ 176-3090, issued on June 27, 2002, that the category for this proceeding is ratesetting but determines that hearings are necessary. This ruling, only as to category, is appealable under the procedures in Rule 6.4.
4. The *ex parte* rules as set forth in Rule 7(c) of the Commission's Rules of Practice and Procedure apply to this application.

5. Administrative Law Judge Cooke is the principal hearing officer.

6. The official service list is attached to this ruling. Parties should file and serve all documents as set forth in this ruling.

Dated July 31, 2002, at San Francisco, California.

/s/ HENRY M. DUQUE

Henry M. Duque
Assigned Commissioner

ATTACHMENT

***** SERVICE LIST *****

Last Updated on 30-JUL-2002 by: SMJ
A0205058 LIST

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(END OF ATTACHMENT)

CERTIFICATE OF SERVICE

I certify that I have by U.S. mail, and by electronic mail to the parties to which an electronic mail address has been provided, this day served a true copy of the original attached Assigned Commissioner's Ruling Establishing Category and Providing Scoping Memo in Compliance With Article 2.5, SB 960 Rules and Procedures on all parties of record in this proceeding or their attorneys of record.

Dated July 31, 2002, at San Francisco, California.

/s/ KE HUANG

Ke Huang

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to ensure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.